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DEPT FOR AF A/S FRAZER, SE WILLIAMSON, AF/SPG, DRL
NSC FOR PITTMAN AND HUDSON
ADDIS ABABA FOR USAU
DEPT PLS PASS USAID FOR AFR/SUDAN

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SUBJECT: DEATH SENTENCE APPEALS REFUSED IN FLAWED TRIAL FOR MURDER
OF SUDANESE JOURNALIST

¶1. (SBU) Summary: Nine defendants convicted of murdering a Sudanese journalist in 2006 retain one final appeal before they face execution, according to UNMIS Human Rights and the defendants' lawyer, Kamal Omer. The murder of Mohamed Taha Mohamed Ahmed resulted in a politically-driven investigation and a highly-flawed trial. Since the sentencing of the nine defendants in November 2007, Sudanese authorities have dismissed three appeals, acting in the interim to commute the death sentence of only one of them, a 17 year old minor. A detainee in the case, who was released without being charged, related how authorities had employed torture to extract confessions. End Summary.

¶2. (SBU) Poloff spoke with Kamal Omer, a lawyer and political activist who has served as pro-bono legal counsel for the nine defendants since their arrest in 2006. Only one route of appeal remains for the defendants. The Sudanese justice system rejected the group's third appeal in October, and Omer remains concerned that the final appeal, which costs approximately US\$1,200 and is scheduled to be heard before Sudan's Constitutional Court, will be similarly dismissed. In accordance with the 2005 Interim National Constitution (INC), the Constitutional Court must issue a final and binding decision examining the process from beginning to end, either verifying the decision or ordering the trials recommence from the beginning. Should the decision be verified, the court will forward its decision to President Omar el-Bashir, who must confirm the sentences in order for authorities to execute the nine defendants.

¶3. (SBU) Active within the opposition People's Congress Party of Islamist-cum-federalist Hassan al-Turabi, Omer said he hopes that international human rights organizations continue to press the Government of Sudan for increased transparency in its justice system. Hoping to bring to light the numerous shortfalls of the prosecution's case, Omer listed the issues he intends to present at the upcoming appeal: suspects were immediately tortured following arrest; confessions were obtained using torture; no witnesses testified at the trial; and no trial evidence was verified as having been used in the commission of the crime. (Note: All of Omer's assertions have been independently confirmed by UNMIS Human Rights. End note.)

¶4. (SBU) Detained in September 2006, Ali Mohamed Sabaa told poloff that during his year-long imprisonment, authorities vacillated between "bad-cop" and "good-cop" roles, at times suspending him by his wrists and beating the soles of his feet, and at other times offering him cash, a passport and asylum if he confessed. Active within the political movement of exiled Darfur rebel leader Abdulwahid al-Nur, Sabaa traveled with the movement to Abuja in 2005 for Darfur peace negotiations, and directly accused the government of using the crime as a pretext to arrest politically-active Darfuris in Khartoum. After an imprisonment that included six months in solitary confinement at Sudanese National Intelligence and Security Services' (NISS) special section for political detainees at

Kober Prison, Sabaa has remained politically-active, but said he fears future arrests. Sabaa was pessimistic as to the fate of his former fellow detainees, saying that the authorities had set up the case to frame the least educated people they detained, and then deceived them with offers of cash for their families. "They were forced to say this case occurred. They believed they would be released after they signed a confession," Sabaa said.

BACKGROUND

15. (SBU) On September 5, 2006, a group of masked assailants kidnapped Mohamed Taha, the editor-in-chief of Al Wafaq newspaper, from his home in Khartoum; his decapitated body was found the following day south of the city. The murder shocked the country, drawing parallels to Al Qaeda killings in Iraq. The editor had faced criminal charges in May 2005 after republishing an article regarding the origins of the Prophet Mohamed, and a court had ordered Al Wafaq to suspend publication for three months. The editor had also angered many Darfuris after publishing articles criticizing the morals of Darfuri women. Following the editor's murder, a Khartoum court barred newspapers from reporting on the criminal investigation; this ban continued throughout the trial as well.

16. (SBU) More than 70 people were detained during the five-month investigation. Nineteen individuals, including two women, were ultimately charged in connection with the murder. In August 2007, nine of the defendants were acquitted for lack of evidence, and ten were convicted and sentenced to death in November 2007. The first appeal of the verdict was denied in March 2008. The second appeal of the verdict resulted only in the reduction of one death sentence,

KHARTOUM 00001709 002 OF 002

that of a 17 year-old defendant, in August, and the Supreme Court of Sudan denied the third appeal of the verdict in October.

17. (SBU) One of the defendants sentenced to death for participation in the crime is a former local guard of the U.S. Embassy, Adam Ibrahim al Haj. During the investigation and subsequent trial, local Embassy investigators and guards presented statements to the court on behalf of the detained employee, who was on duty when the crime allegedly took place. The employee told Embassy investigators that he had been instructed to confess, and to claim that he had used an Embassy vehicle during the crime (which he refused to do, telling them that guards were not permitted to drive Embassy vehicles.)

18. (SBU) Comment: The high-profile murder of a controversial journalist provided Sudanese authorities with an excellent opportunity to display the sort of judicial integrity that is guaranteed in the INC. However, the botched prosecution of the defendants casts serious doubt onto whether the ruling NCP regime has the will not to revert to the brutal and kangaroo court tactics that have long been standard Sudanese judicial operating procedure. An independent justice system would not tolerate the lack of credible evidence and witnesses, an official gag order on journalists covering the trial, nor a perfunctory appeals system. This gives Sudanese and foreigners alike very little confidence that any of those arrested for crimes in Sudan are actually guilty. An exception, in our view, is the ongoing trial of the five Sudanese defendants accused in the January 1, 2008 murders of USAID employee John Granville and his driver, Abdelrahman Abbas Rahama. Based on the evidence we have seen and that has been presented so far in court, we believe those charged are receiving a fair trial. However, while some of those convicted of the 2006 murder of journalist Mohamed Taha Mohamed Ahmed may in fact be guilty, the process used in this case raises serious concerns about the Sudanese justice system.

FERNANDEZ